Document #5444

10/31/91

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ADOPTED

MEMORANDUM

OCTOBER 31, 1991

TO: BOSTON REDEVELOPMENT AUTHORITY AND

FROM: LINDA MONGELLI-HAAR, ASSISTANT DIRECTOR FOR NEIGHBORHOOD PLANNING AND ZONING
THOMAS O'MALLEY, ASSISTANT DIRECTOR FOR NEIGHBORHOOD HOUSING AND DEVELOPMENT
GERRY KAVANAUGH, DIRECTOR OF INSTITUTIONAL PLANNING
MICHAEL HUNTER, DEPUTY DIRECTOR FOR NEIGHBORHOOD PLANNING AND ZONING

SUBJECT: SOUTH END TECHNOLOGY SQUARE PROJECT IN THE SOUTH END URBAN RENEWAL AREA, PROJECT MASS. R-56, ADOPTION OF ORDERS OF TAKING FOR PORTIONS OF PARCEL 46B OF THE SOUTH END URBAN RENEWAL AREA.

EXECUTIVE SUMMARY: This memorandum requests that the Boston Redevelopment Authority: (1) adopt an Order of Taking for the portion of Parcel 46B owned by the City of Boston, and (2) adopt a confirmatory Order of Taking for portions of Parcel 46B owned by the Authority for title perfection purposes.

On September 26, 1991, the Boston Redevelopment Authority ("BRA") approved a Planned Development Area Master Plan and Development Impact Project Plan (the "Master Plan PDA") and two PDA development plans submitted by University Associates Limited Partnership ("UALP") for the development of a multi-use medical, research, office, retail, commercial, garage and hotel project (the "Project") on Parcel 46B in the South End Urban Renewal Area, Mass. Project R-56.

UALP is seeking final designation as redeveloper of Parcel 46B under the South End Urban Renewal Plan and designation as developer of Parcel 46B and certain property adjacent thereto under M.G.L. Chapter 30B. UALP is also requesting the BRA to execute a Land Disposition Agreement for the conveyance of Parcel 46B based upon terms and conditions therefor which were negotiated with the Public Facilities Department on behalf of itself and the BRA and are set forth in a Memorandum from the Public Facilities Department ("PFD") to the Public Facilities Commission dated October 25, 1991 Re: Terms and Conditions for the Conveyance of Parcel 46B.

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Parcel 46B in the South End Urban Renewal Area consists of approximately 8.2 acres of land located between Albany Street and the Massachusetts Avenue Connector, and between 600 Albany Street, one of the flower market buildings, and the power generation plant of Boston City Hospital. It is currently divided into three ownership parcels: Parcel J-1 and Parcel M consisting of approximately 1.02 acres owned by the BRA (the "BRA Parcel"), parcel H consisting of approximately 6.03 acres owned by the City (the "City Parcel"), and Parcel K consisting of approximately 1.21 acres owned by the Commonwealth of Massachusetts (the "State Parcel"), all as shown on the plan entitled: "Land Acquisition Plan Phase I in Boston, Mass. (South End District)," dated October, 1991 prepared by Bryant Associates, Inc., a copy of which is attached hereto as Exhibit B. The Terms and Conditions contemplate that the BRA's Power of Eminent Domain, perfect the title in the BRA Parcel by a confirmatory taking, then convey both the City Parcel and the BRA Parcel to UALP for the consideration provided for in the Terms and Conditions.

It is contemplated that the State Parcel would be transferred by the Commonwealth of Massachusetts to the City, by the City to the BRA, then by the BRA to UALP pursuant to Chapter 762 of the Acts of 1962, as amended by Chapter 567 of the Acts of 1966 (the "Statute"). This transfer may occur subsequent to the initial transfer of the City Parcel and BRA Parcel to UALP.

An appraisal of Parcel 46B was prepared and the damages to be awarded to the City of Boston ("City") for the contemplated acquisition of the City Parcel by exercise of the BRA's Power of Eminent Domain are specified in the Terms and Conditions. Such damages are consistent with that appraisal and are acceptable to the City.

The requested taking of the BRA Parcels is for title perfection purposes only and does not involve the acquisition of any additional land or the award of any additional damages.

The Terms and Conditions contemplate that no taking of the City Parcels will occur unless and until HUD, HHS and the Bond Trustee (as such terms are defined in the bond documents for the revenue bond for the new Inpatient Care Facility at Boston City Hospital) have released the HUD mortgage currently encumbering a portion of the City Parcel or have determined that no such release is required. Accordingly, it is recommended that both of the requested Orders of Taking be adopted, but not recorded and held in escrow until such release or determination has occurred.

An appropriate vote follows:

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VOTED: That the Boston Redevelopment Authority ("BRA") adopt the Order of Taking attached hereto as Exhibit C for the portion of Parcel 46B in the South End Urban Renewal Area consisting of Parcel H as shown on the plan entitled: "Land Acquisition Plan Phase I in Boston, Mass. (South End District)," dated October, 1991 prepared by Bryant Associates, Inc., a copy of which is attached hereto as Exhibit A (the "Land Acquisition Plan").

FURTHER VOTED: That the Boston Redevelopment Authority adopt the Order of Taking attached hereto as Exhibit D for the portion of Parcel 46B in the South End Urban Renewal Area consisting of Parcel J-1 and Parcel M as shown on a plan entitled "Land Acquisition Plan Phase I in Boston, Massachusetts (South End District)," dated October 1991, prepared by Bryant Associates, Inc., a copy of which is attached hereto as Exhibit A (the "Land Acquisition Plan").

FURTHER VOTED: That both of such Orders of Taking shall be held in escrow and not recorded in the Suffolk Registry of Deeds after their adoption by the BRA until such time as the mortgage currently encumbering a portion of said Parcel H as security for the revenue bond for the new Inpatient Care Facility at Boston City Hospital shall have been released or it shall have been determined that no such release is required; provided that if such Orders of Taking have not been recorded on or before the thirtieth (30th) day after the adoption thereof, the BRA shall adopt new Orders of Taking in the same form but updated to such thirtieth (30th) day, which shall replace those then held in escrow, and the same process shall be implemented every thirty (30) days to ensure the validity of said Orders of Taking under M.G.L. Chapter 79, Section 3 at the time when they are released from escrow and recorded in accordance herewith.

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

RESOLUTION

BE IT RESOLVED by the Boston Redevelopmenty Authority that an Order of Taking dated OCT. 31 1991 relating to portions of the SOUTH END URBAN RENEWAL AREA, MASS. R-56, be executed together with a plan entitled, "Land Acquisition Plan Phase I in Boston, Mass. (South End district), dated October, 1991," prepared by Bryant Associates, Inc., Boston, Mass., and made a permanent part of these proceedings, a copy of which the Secretary shall cause to be recorded in the Office of the Registry of Deeds for the County of Suffolk.

A true copy

CERTIFICATE

I hereby certify that the following names constitute the entire membership of the Boston Redevelopment Authority:

Clarence J. Jones
Michael F. Donlan
Francis X. O'Brien
James K. Flaherty
Consuelo Gonzales Thornell

A true copy

ATTEST: Kane Simonian
Secretary of the Boston Redevelopment Authority

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

BOSTON REDEVELOPMENT AUTHORITY

ORDER OF TAKING

WHEREAS, the Boston Redevelopment Authority, in accordance with G.L. c. 121B and its predecessor Statute G.L. c. 121, adopted and filed in the Suffolk County Registry of Deeds, Book 8056, page 295, and Order of Taking, dated June 30, 1966, concerning and describing the SOUTH END URBAN RENEWAL AREA, all of the findings, determinations and descriptions set forth therein being incorporated herein by reference and made a part hereof;

WHEREAS, the Boston Redevelopment Authority has deposited with the Mayor of the City of Boston security to his satisfaction for the payment of such damages as may be awarded in accordance with law to the owner or owners of said area, as required by G.L. c. 79, s. 40; and

NOW, THEREFORE, BE IT ORDERED that the Boston Redevelopment Authority, acting under the provisions of said c. 121B, and all other authority thereunto enabling and pursuant to the applicable provisions of said c. 79, and of any and every power and authority to it, granted or implied, hereby takes for itself in fee simple by eminent domain, for the purposes hereinbefore set forth or referred to, the area or areas located in the City of Boston as hereinafter described in ANNEX A, together with any and all easements and rights appurtenant hereto, including any trees, buildings and other structures standing upon or affixed thereto and including the fee, if any, in all public streets, highways and public ways in said area or areas or contiguous and adjacent to the property taken hereby, provided such fee is a part of said property, except any and all easements of travel in and to any and all public streets, highways and public ways in said area or areas or contiguous and adjacent thereto.

to the property taken hereby, provided such fee is a part of said property, except any and all easements of travel in and to any and all public streets, highways and public ways in said area or areas or contiguous and adjacent thereto.

AND FURTHER ORDERED that in accordance with the provision of the said Chapter 79, as amended, awards are made by the Boston Redevelopment Authority for damages sustained by the owner of owners and all other persons, including all mortgagees of record, having any and all interest in the parcel described in ANNEX A and entitled to any damages by reason of the taking hereby made. The Boston Redevelopment Authority reserves the right to amend the award (awarded in ANNEX B) at all times prior to the payment thereof by reason of a change in ownership or value of said property before the right to damages therefor has become vested or for other good cause shown. The awards hereby made are set forth in ANNEX B, which ANNEX B is not to be recorded in the Registry of Deeds with the Order of Taking.

AND FURTHER ORDERED that the Secretary of the Boston Redevelopment Authority cause this instrument of Taking to be recorded in the office of the Suffolk County Registry of Deeds.

IN WITNESS WHEREOF, we, the following members of the Boston Redevelopment Authority have caused the corporate seal of the Authority to be hereto affixed and these presents to be signed in the name and behalf of the Boston Redevelopment Authority.

DATED: OCT. 31 1991 BOSTON REDEVELOPMENT AUTHORITY

By:

ATTEST:

Secretary of the Boston Redevelopment Authority

Approved as to form:

Ralph F. Cahill, Assistant General Counsel

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ANNEX A

BOSTON REDEVELOPMENT AUTHORITY

SOUTH END URBAN RENEWAL AREA

TAKING AREA DESCRIPTION

The following parcels of land are the only parcels taken by this Order of Taking:

Parcel J-1, containing approximately 44,498 square feet of land, as shown on a plan entitled, "Land Acquisition Plan Phase I in Boston, Mass. (South End District)," dated October, 1991, and prepared by Bryant Associates, Inc., Boston, Massachusetts, which Plan is recorded herewith.

Parcel M, containing approximately 14 square feet of land, as shown on the above-reference plan.

The Supposed Owner of the above parcels is the City of Boston and/or the Boston Redevelopment Authority.

ANNEX B

BOSTON REDEVELOPMENT AUTHORITY

SOUTH END URBAN RENEWAL AREA

AWARD OF DAMAGES

An award of One ($1.00) Dollar and other valuable consideration is made with this Order of Taking.

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